

Manchester Journal of Transnational Islamic Law & Practice

About

The Manchester Journal of Transnational Islamic Law & Practice (formerly the Journal of Islamic State Practices in International Law) was founded in 2005. The Journal is independent of any State, school of fiqh or institutional affiliation and has a diverse and global editorial board. It is indexed on Scopus and available both in electronic and printed forms.



Aims of the Journal

The principal objectives of the Manchester Journal of Transnational Islamic Law & Practice (MJTILP) are to provide a vehicle for the consideration of transnational forms of Islamic law and practice. Transnationalism in Islamic law is taken broadly as communications and interactions linking Islamic thoughts, ideas, people, practices and institutions across nation-States and around the globe. In recent times, research in Islamic law has shaped narratives based on nation-States, demographics, diasporic communities, and ethnic origins instead of developing around a central core. Contemporary issues of Islamic law are increasingly linked to geographical locations and ethnic or parochial forms of religious beliefs and practices. Expressions like American, European, British, Asian, and Arab Islam have widely gained acceptance.

Despite the growing importance of dialogue to develop shared understandings of issues facing Islamic law and proposing coordinated solutions, the contemporary research and scholarship has not developed harmoniously and remains piecemeal and sporadic. Researchers and practitioners of Islamic law are drawn from a wide variety of subjects and come from various regions of the world but have insufficient institutional support for sharing information and comparing experiences. Innovation in various strands and paradigms of Islamic law and practice is stifled because there are limited spaces where evolutionary, collaborative and interdisciplinary discourses can take place. This in turn hampers the ability to build on past research and record best practices, negatively impacting a consistent and orderly development of the field. There is a need to constitute a world community of Islamic law scholars based on interactions and aspirations moving across linguistic, ethnic, geographical and political borders.

The MJTILP is inspired by the need to fill these gaps. It provides a platform to legal and interdisciplinary scholars and researchers for critical and constructive commentaries, engagements, and interactions on Islamic law and practice that are built upon configurations in contemporary contexts. It welcomes contributions that look comparatively at Islamic law and practice that apprise and inspire knowledge across national boundaries whether enforced by a State or voluntarily practiced by worldwide Muslim communities. We are equally interested in scholarships on encapsulated cultural worlds, diaspora, identity and citizenship that are embedded and circumscribed by religious ties. As it has been the practice of the journal since its establishment in 2005, it also has a specific interest in issues relating to the practice of Muslim States in international law, international law issues that may concern Muslim countries, and all aspects of law and practice affecting Muslims globally.

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Re-contextualising Dowry in the Modern Era from Family Economic Perspectives

Siti Zulaikha*

Abstract: Dowry is considered one of the requirements for marriage. It is a form of commitment and appreciation from the husband in building a household, which means that a larger dowry payment signifies the seriousness of the husband in building a household and honouring the wife. However, marriages with very little and often very trivial items given in dowry are also observed. These unions have been criticised as demeaning for the dignity of women, with some people even challenging their legal validity. This article analyses the changing meaning of dowry from the early period of Islam to the modern era based on the perspective of family economics. It uncovers that the concept of dowry has constantly evolved from the period of *jahiliyyah* (pre-Islamic Arabia before the advent of Islam in 609 CE) to contemporary times. The interpretation of dowry became more rigid and inflexible during the classical age of *fiqh* (jurisprudence). However, classical interpretation still carries the message that dowry must be beneficial to the wife in the way to create a marital tie based on mutual respect and equality. Additionally, dowry in the modern context is also considered one of the *wasilah* (means) to realise the *maqasid* (objectives) of marriage, namely *sakinah* (tranquillity). It is, therefore, necessary to consider these values when determining the type and amount of dowry and for better understanding of its appropriate function as a *wasilah mawashid al-nikah* (means of realising benefits of marriage).

Keywords: Dowry; Contextual Interpretation; Family Economy; *Maqasid*

I. INTRODUCTION

Desire for marriage and family life is considered a human instinct. Thahir ibn Ashur claimed that when actions were carried out based on natural inclinations, sharia guidance plays a supporting role.¹ The presence of verses in Qur'an or hadiths on marriage are, therefore, a divine intervention to better organise and regulate marital affairs. However, sharia requirements of marriage require careful consideration for the fulfilment of parties' *mu'amalah* (human relationship) whose rights and obligations need to be met.² Dowry rights of the wife are one of those important sharia requirements, which were ignored during the time of *jahiliyyah* (ignorance) when dowry was often given as a gift to the father or male relatives of the wife, instead of the wife itself.³ This *jahiliyyah* era custom has given rise to the conception of marriage as similar to a transaction where the prospective husband is considered as buyer⁴

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¹ Thahir Bin Ashur, *Maqashid Al-Syariah al-Islamiyah* (in Arabic) [*the Purpose of Establishing Islamic Law*] (Saudi Arabia: Dar al-Salam 2003) 123.

² Abdul Wahhab Khallaf, *Ilmu Ushul Al-Fiqh* (in Arabic) [*Basic Science of Jurisprudence*] (Damaskus: Dar al-Fikr 1978) 145.

³ Dian Ramadhan and Farah Ihza Fauzia Balqis, 'Pandangan Mazhab Hanafi Dan Maliki Terhadap Jumlah Kadar Mahar Pada Akad Nika' (in Indonesian) ['The Views of the Hanafi and Maliki Schools Regarding the Amount of Dowry in the Marriage Contract'] (2020) 3 (1) Jawi 41, 47.

⁴ Ihsan Helmi Lubis et al., 'The Pillars and Conditions of a Contract in Muamalat Transactions' (2023) 2 (1) Mu'amalah: Jurnal Hukum Ekonomi Syariah 15–32.

and the father or male family members of the potential wife as owners of the property, with dowry being the price.⁵ This is not in line with Islamic teachings, where dowry is akin to the symbol of appreciation and proof of the husband's seriousness in marrying the prospective wife.⁶

When a dowry is considered a form of appreciation, the common perspective indicates that a larger payment leads to more tremendous gratitude the husband provides to the prospective wife.⁷ In Indonesia, marriages are commonly conducted with dowry containing a set of prayer rug or other trivial items, such as sandals. Such practice of dowry is arguably opposed to the rights of females granted by sharia.⁸ The provision of a prayer accessories as a dowry implies that the husband requires the wife to become a *salihah* (righteous) female. Although other forms of dowry are also common, this type of marriage payment is customary in Indonesia. For example, 70% of marriages always include a set of prayer accessories as a part of dowry in West Sumatra.⁹ A marriage where a pair of flip-flops was given as dowry in Lombok was widely criticised on social media, with some considering such payment as dowry as a disrespect towards women. However, others considered it as immaterial as the validity of the religious validity of marriage is not affected.¹⁰

Several studies exist on dowry, notably by Putra Halomoan, "Determining Dowry for the Continuity of Marriage from the Perspective of Islamic Law";¹¹ Burhanuddin Abdul Ghani and Ainun Hayati, "Limiting the Amount of Dowry Through the Decision of the East Kluet Customary Deliberation";¹² Jayusman et al., "Urf Review of the Practice of Gold Marriage Dowry in the Community of Tanjung Senang District, Bandar Lampung";¹³ and 4) Ahmad Arif Masdar Hilmy and Ria Cahyaning Utami in "Classification of Women in the Class Concept of Dowry: A Study of Berger and Luckmann's Social Construction".¹⁴ These studies have primarily focused on the legal standing of dowry from both Islamic and customary law perspectives. However, this article aims to analyse the contextualisation of dowry in the modern era from a family economic perspective.

⁵ Halimah Basri, 'Konsep Mahar (Maskawin) Dalam Tafsir Kontemporer' (in Indonesian) ['The Concept of Dowry in Contemporary Tafsir'] (2017) 6 (1) *Al Daulah: Jurnal Hukum Pidana Dan Ketatanegaraan* 310, 314.

⁶ Siti Zulaikha et al., 'Dowry Function in Perspective of Mubadalah' (2022) 2 (1) *Journal of Sharia, Tradition, and Modernity* 1, 6.

⁷ Efrinaldi et al., 'Urf Review of The Practice of Gold Marriage Mahar in The Community of Tanjung Senang District Bandar Lampung' (2022) 7 (1) *Al-Istinbath: Jurnal Hukum Islam* 393–398.

⁸ Endri Yenti and others, 'A Set of Prayer Outfits as a Mahar? Discrimination against Women in the 'Urf Reality of the Archipelago's Fiqh' (2020) 20 (2) *Al-Risalah* 17, 22.

⁹ Noryamin Aini, 'Tradisi Mahar Di Ranah Lokalitas Umat Islam: Mahar Dan Struktur Sosial Di Masyarakat Muslim Indonesia' (in Indonesian) ['Dowry Traditions in Muslim Localities: Dowry and the Social Structure of Indonesian Muslim Societies'] (2014) 17 (1) *AHKAM: Jurnal Ilmu Syariah* 13, 17.

¹⁰ Ahmad Fadhil, 'Hukum Mahar Murah' (in Indonesian) ['Cheap Dowry Law'] (2021) 7 (2) *Holistic al-Hadis* 108, 112.

¹¹ Putra Halomoan, 'Penetapan Mahar Terhadap Kelangsungan Pernikahan Ditinjau Menurut Hukum Islam' (in Indonesian) ['Determination of the Dowry for the Continuity of Marriage Reviewed According to Islamic Law'] (2016) 14 (2) *Juris (Jurnal Ilmiah Syariah)* 107, 109.

¹² Burhanuddin Abdul Gani and Ainun Hayati, 'Pembatasan Jumlah Mahar Melalui Keputusan Musyawarah Adat Kluet Timur' (in Indonesian) ['Limitation on the Amount of Dowry Through the Decision of the East Kluet Traditional Council'] (2017) 1 (1) *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 174, 179.

¹³ Efrinaldi Efrinaldi and others, 'Urf Review of The Practice of Gold Marriage Mahar in The Community of Tanjung Senang District Bandar Lampung' (2022) 7 (1) *Al-Istinbath: Jurnal Hukum Islam* 287, 192.

¹⁴ Ahmad Arif Masdar Hilmy and Ria Cahyaning Utami, 'Classification of Women in The Class Concept of Dowry: A Study of Berger and Luckmann's Social Construction' (2021) 16 (1) *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 137, 139.

The following discussions in this article begin with an exploration of the criteria for dowry in the Qur'an, hadith, and classical *fiqh* (jurisprudence) literature. An examination of the shift in the meaning of dowry according to developments over time is presented next. In addition to the classical sources on dowry, particular attention has been paid to articles published in the last five years (2018-2023) to investigate how contemporary scholars have addressed the question of dowry. In particular, Abdullah Saeed's contextual interpretation is employed and considered suitable for understanding dowry in the modern era.¹⁵ This interpretation has prioritised application of values contained in the messages of Qur'an and hadith to the modern context, which involves significant shift from time and culture. This article finds that Abdullah Saeed, as one of the successors of Fazlur Rahman, is indeed highly tactical in contextualising the critical messages of the Qur'an. This article concludes that in contemporary times dowry is best interpreted as an essential part in the process of realising the goal of marriage in the form of *sakinah*.

II. DOWRY IN QUR'AN

The position of dowry is important in the implementation of marriage aside from being a symbol or mere formality. However, the amount of dowry is not mentioned in the Qur'an.¹⁶ Several terms are employed by the Qur'an to emphasise dowry, namely "*faridah*" (religious obligation), "*ujur*" (consideration or payment), and "*saduqāt*" (righteous offering). In this case, the term directly and explicitly mentioning dowry and its condition was found in "*saduqāt*", accompanied by "*nihlah* (voluntary provision)."¹⁷

"*Ṣaduqāt*" was the plural form of "*ṣaduqāh*", which was derived from "*ṣidq*" and "*nihlah*", indicating "voluntary provision". Based on the stated verse, dowry should be provided to the woman and the family, as practiced by the *jahiliyyah* society.¹⁸ This interpretation is quite in line with the explanation of the Qur'anic verse: "And give a dowry to the woman (whom you marry) as a voluntary gift. Then if they give some of it (dowry) to you happily, then accept it and enjoy the gift with pleasure".¹⁹

Ibn Ashur also stated that *ṣaduqāh* and dowry had similar interpretations, with *ṣaduqāh* emphasising a voluntary gift provided by one person to another. It also indicated mere provision, with *nihlah* prioritising production without expecting anything in return. Furthermore, *ṣaduqāh* in dowry was the provision of marriage payment by the husband to the wife due to the *muāsyarah* (the concept of friendship between husband and wife) contained in their relationship. This showed that *ṣaduqāh* (voluntary provision) and *muawwaḍāh* (rights and duties of husband and wife) represented gift and contract, respectively. From this context, *muawwaḍāh* (rights and duties of husband and wife) indicated the rights and obligations between the husband and wife. According to Ibn Ashur, dowry was not interpreted as exchanging or purchasing women. The dowry payment enabled the husband and wife to establish a life together, including the ability to engage in sexual relations. It also represented

¹⁵ Busyro et al., 'Female Imam and Khatib: The Shifting in Worship Traditions from Progressive to Conservative in Sungai Landia, West Sumatra, Indonesia' (2023) 22 (1) *Juris: Jurnal Ilmiah Syariah* 39–51.

¹⁶ Zulaikha et al. (n 6).

¹⁷ Muhammad Arif Zuhri, 'Konsep Mahar Dalam Al- Quran: Suatu Tinjauan Semantik' (in Indonesian) ['The Concept of Dowry in the Koran: A Semantic Review'] (2018) 11 (2) *Ulumuddin* 31, 43.

¹⁸ Firman Surya Putra, 'Urgensi Dan Kedudukan Shodaq (Mahar) Dalam Pernikahan' (in Indonesian) ['The Urgency and Position of Shodaq (Dowry) in Marriage'] (2021) 8 (2) *Jurnal An-Nahl* 78, 82.

¹⁹ Qur'an, An-Nisa (Women) 4:4.

a significant investment, often surpassing other expenses. In addition, the dowry payment aimed to glorify women according to Ibn Ashur.²⁰

Al-Sabuni also interpreted this verse as an order to provide wives a dowry, i.e., an obligation created by Allah. In this case, *nihlah* indicated a grant, where ‘*athiyah* (gift) emphasised a good spirit. Therefore, *mafhum mukhalafah* (incongruent signification) prioritised the non-provision of dowry to women when having negative feelings towards them.²¹ This condition was known as “*sadaq*” due to proving the sincerity or honesty of a man toward marrying the prospective bride. From this context, a sincere man should provide a woman with an appropriate amount of money (*sadaq*), as a sign of respect for the interpretation of marriage and the constructed relationship. Based on these descriptions, several scholars interpreted *nihlah* as a good-heart provision, with others translating it as a religious obligation.²²

According to al-Jassas, *nihlah* was also interpreted as a voluntary provision without the expectation of any reward.²³ Some Indonesian scholars such as Buya Hamka, also provided a similar understanding. However, Buya Hamka also translated *nihlah* as a bee (draw parallels with a man) seeking nectar from flowers to be stored as honey. This indicated that a man needs to strive to obtain good and lawful things, with a dowry provided when marrying a woman.²⁴ In the Qur’an, the payment was also known as *faridhah* (obligation), which emphasised an obligation. The following verse prioritises the statement of Allah: “And there is no sin for you in proposing to these women with insinuations or hiding (your desires) in your heart. Allah knows that you will mention it”.²⁵

Based on this verse, the context of divorce was emphasized, compared to marriage. This explained the obligatory provision of dowry even when the relationship between husband and wife was ultimately broken. In line with the context of this verse, the following decree was also provided by Allah:

“And if you wish to replace a wife with another and you have given one of them a great amount [in gifts], do not take [back] from it anything. Would you take it in injustice and manifest sin?”.²⁶

In this verse, Allah focused on ‘*qintar*’ (great amount), which was interpreted as an abundance of wealth according to Ibn Ashur. This proved that dowry was considered a significant amount of wealth”.²⁷

The last term used by the Qur’an to interpret dowry was “*ujur*” or “*ujrah*” (compensation). For example, in Surah An-Nisa (4:24-25), Al-Ma’idah (5:5), Al-Ahzab (33:50), Al-Mumtahanah

²⁰ Thaher ben Ashur, *Al-Tahrir Wa al-Tanwir* (in Arabic) [*Liberation And Enlightenment*] (Tunisia: al-Dar al-Tunisiyah 1984) 165.

²¹ Muhammad Ali Al-Sabuni, *Rawa’i al-Bayan* (in Arabic) [*Narrated The Statement*] (Damaskus: Maktabah al-Ghazaliy 1980) 123.

²² Putra (n 18).

²³ Dian Apriana and Nanda Silvia, ‘Imbalance of Rights and Obligations of Husband and Wife in the Family’ (2022) 1 (2) MILRev : Metro Islamic Law Review 214, 217.

²⁴ Widya Oktavia, ‘Tafsir Maqāṣidi Mahar Ibn ‘Āsyūr’ (in Arabic) [‘Tafsir Maqāṣidi Mahar Ibn ‘Āshūr’] (2020) 86.

²⁵ Qur’an, Al-Baqarah (Cow) 2:235.

²⁶ Qur’an, An-Nisa (Women) 4:20.

²⁷ Ashur (n 20).

(60:10), and At-Talaq (65:6). This linguistically indicated compensation for the services rendered. In Surah An-Nisa (4:25), Allah stated the following:

“...Therefore, marry them with the permission of their masters and give them their bridal compensation according to what is acceptable”.²⁸

Based on this verse, Muslim believers are permitted to marry women after obtaining permission from their guardians and providing them with bridal compensation in a *ma'ruf* (acceptable) in society and culture. Imam al-Razi also stated that dowry was known as '*ujrah*' due to serving as a substitute for the joy and benefits obtained from women after marriage solemnisation.²⁹ This undermined the position of females in marriage, perceiving them as mere commodities. In this context, Thahir bin Asyur asserted that the position of dowry was different, due to being a pure gift expected to be provided by the husband.³⁰

III. DOWRY IN HADITH

No definite rule regarding the amount or kind of dowry is found in the Qur'an. The Holy Qur'an only indicated that dowry should be voluntarily provided according to what is *ma'ruf* or what is acceptable in a society. This signifies that the amount of dowry can be adjusted according to local custom and the hadiths of the Prophet present an adequate explanation for this flexibility. For example, according to popular hadith narrations, dowry given by Ali bin Abi Talib's in his marriage to the Prophet's (Peace be Upon Him) daughter was a suit of armour requested by the Prophet for Fatimah. There are also other narratives claiming that the armour was not the marriage payment, which was instead 480 dirhams produced from the armour's sale. This makes a significant amount when converted into modern currency. On another occasion, Prophet (PBUH) approved the marriage of one of his companions based on an iron ring as marriage payment, which was supposed to be very inexpensive. Since the companion did not even possess the iron ring, the Prophet approved the marriage based on the person's ability to teach her the Qur'an as dowry. It is narrated from Sahl bin Sa'ad that he said:

“A female came to the Prophet and said that she was dedicating herself to Allah and His Messenger (to be married by the Prophet). Then the Prophet said, 'I do not need wife.' Then a male (among the companions present) said, 'Marry her to me.' Therefore, the Prophet said to him, 'Give her something (as a dowry).' The male said, 'I do not have any clothing (to give as a dowry).' Then the Prophet said to him again, 'Give her something, even if it is an iron ring.' The male said, 'I do not have anything.' Then the Prophet asked him, 'Do you have anything (memorised) from the Qur'an?' He replied, 'I have memorised this and that.' Then the Prophet said, 'Indeed, I marry you to her based on the Qur'an that you have (memorised).’”³¹

Based on the hadith, a majority of *ulema* (sharia scholars) allowed marriage with a dowry serving as spiritual rather than material benefit.³² Another hadith narrates as follows:

²⁸ Qur'an, An-Nisa (Women) 4:25.

²⁹ Fakhruddin Al-Razi, *Mafatih Al-Ghaib* (in Arabic) [*The Key To The Unseen*] (Beirut: Dar Ihya' Turast al-Arabiyy 1420) 234.

³⁰ Ashur (n 20).

³¹ Imam Bukhori, *Shohih Bukhori* (in Arabic) [authentic hadith of Bukhori] (Beirut: Dar Fiqr, 2010) 4740.

³² Muhammad Habib and Ramadhania Ramadhania, 'Ayat Al Quran (Jasa) Sebagai Mahar Pernikahan Menurut Perspektif Islam Dan Imam Mazhab' (in Indonesian) ['Al-Quran Verses (Worship) as a Marriage Dowry According to the Islamic Perspective and Imam Mazhab'] (2020) 4 (1) Action Research Literate 31, 36.

It is narrated by Ashim bin Ubaidillah who said, “I heard Abdullah bin Amir bin Rabi’ah, from his father, that a female from the tribe of Bani Fazarah got married with a dowry of a pair of sandals. Then the Prophet asked the female, ‘Are you content from the depth of your heart with this dowry of a pair of sandals?’ The female replied, ‘Yes.’ Then the Prophet permitted the marriage.”³³

According to this hadith, the requirement of dowry to be provided to the wife was simple and based on the principle of mutual tranquillity of relationship rather than material or physical benefit. This contradicts the opinion of several scholars who consider that the purpose of dowry is to reward women for fulfilling sexual needs to their husband.³⁴ Regarding the hadith about teaching of the Qur’an as a dowry, Ibn Ashur explained its un-usability for determining dowry in contemporary times for various reasons, particularly emphasising that it involved a companion of the Prophet who knew Qur’an at the time when few people knew it.³⁵

Furthermore, the Prophet in this hadith allowed a pair of sandals as dowry from a husband who had already consummated that marriage.³⁶ In this case, the Prophet could not have logically ordered them to divorce and remarry due to his merciful nature, as those circumstances would have caused great inconvenience. After seeing their sincerity in relationship and content of women, the Prophet reluctantly approved of the marriage ceremony. The hadith about the sandal dowry was also considered *dhaif* (weak) in all its narration chains.³⁷ This hadith make little sense if considered as the Prophet’s *fatwa* (legally binding opinion) recommending sandals as dowry. Based on the analysis of Ibn Ashur, this hadith is strongly presumed as *khususiyah* (specific), with the ruling only applicable to the involved couple in their specific circumstances.

IV. DOWRY IN CLASSICAL JURISPRUDENCE

The differences observed in accepting, understanding, and interpreting the hadiths has led to distinct perspectives in *fiqh* (Islamic law) on the purpose and value of dowry. *Ulema* had different perspectives concerning its types, amount, and conditions. The majority of *ulema* also considered the exhibition of dowry as material objects or services. According to Hanafi school, the non-material dowry as teaching the Qur’an to wife is not permitted because the learning process is not capable of being converted into wealth.³⁸ From this context, two approaches emerge regarding the invalidity of teaching as dowry. Firstly, teaching is not valuable to wife when she reads and understands the Qur’an. Secondly, teaching Qur’an is the responsibility of husband if the wife cannot read Qur’an. This effectively proves that teaching Qur’an cannot not be considered as dowry as a rule.³⁹

³³ Muhammad bin Isma’il al-Shan’ani, *Subul al-Salam* (in Arabic) [Path of peace] (Riyadh: Maktabah al-Ma’arif al-Nasyr wa al-Tawzi’, 2006) 414.

³⁴ Cf. Mochamad Tholib Khoiril Waro, ‘Makna Mahar Dalam Alquran (Kajian Historis-Antropologis)’ (in Indonesian) [‘The meaning of dowry in the Qur’an (Historical-Anthropological Study)’] (2019) 4 (1) *Jurnal At-Tibyan: Jurnal Ilmu Alquran dan Tafsir* 61, 67.

³⁵ Ashur (n 1).

³⁶ Imiim Muhammad Bin and Ibn Majah Al-qazwini, *Sunan Ibn Majah* (2007) 83.

³⁷ Fadhil (n 10).

³⁸ Nurhadi Nurhadi, ‘Mahar Services (Dowry Non Material) According to Mazhab Imam Hanafi and Mazhab Imam Syafi’i’ (2018) 1 (1) *Indonesian Journal of Islamic Law* 91–93.

³⁹ M. Jafar, ‘Hukum Hafalan Al-Qur’an Dan Hadis Sebagai Mahar Nikah’ (in Indonesian) [‘Law On Memorizing the Qu’an and Hadith as a Wedding Dowry’] (2022) 2 (1) *Jurnal Al-Mizan* 120, 126.

Based on the opinion of *jumhur ulema*, dowry needs to be emphasised as something useful and convertible into goods. This indicates that dowry characterised by non-material elements can be legalised only when it is convertible into assets. From these descriptions, both *jumhur* and Hanafī agreed that dowry should be characterised by a beneficial provision to the wife after the conclusion of the marriage contract. However, *jumhur* and Hanafī *ulema* have different opinions about useful assets for the wife.

Scholars have different opinions on minimum amount of dowry as well as the payment mechanisms. However, agreement of scholars exists where no maximum dowry was determined. According to Hanafī school, the minimum dowry was 10 dirhams, as observed for the *nishab* (limit) of cutting off a hand in the case of theft.⁴⁰ This estimation was presently equivalent to 29.75 grams of gold. For Maliki scholars, the minimum dowry was ¼ dinar or 3 dirhams, with the conversion into gold presently equivalent to 8.925 g. Meanwhile, Shāfi‘ī and Hanbali schools preferred no minimum limit or price for dowry.⁴¹ From the perspective of Maliki school, the minimum dowry limit was a benchmark for the validity of a marriage. When couples were married with a dowry of fewer than 3 dirhams, two choices were commonly provided: 1) *fasakh* (cancel) the marriage, or 2) meet the 3-dirhams payment requirement.⁴² For the perspective of Hanafī school, they also provide two options when dowry stated in the contract was less than 10 dirhams, indicating that the husband should meet the 10-dirhams payment or switch to *mitsl* (equal worth of goods).⁴³

The different perspectives regarding the minimum amount of dowry depended on the respective reasoning of each school. Hanafīs were guided by the hadith of the Prophet, where no dowry was less than 10 dirhams.⁴⁴ This was not in line with the Shāfi‘ī and Maliki opinions guided by the hadith narrated by Sahl bin Sa‘ad, where the Prophet permitted marriage with a dowry characterised by teaching the Qur‘an. Hanafī, Maliki, and Shāfi‘ī scholars have acknowledged the validity of this hadith, however, Hanafīs stated that the hadith only explained the *muqaddimah* (introduction or purpose) of dowry as solace for the female.⁴⁵ Malikis also showed that the hadith potentially represented the Prophet’s decision specifically directed to the circumstances of the persons involved and having no universal applicability.⁴⁶

From these various perspectives of *fiqh*, the stipulation of dowry amount should not convey the impression of women’s weakness or lower standing than men in marriage.⁴⁷ Shāfi‘ī and Hanbali schools have, however, prioritised the male party’s ease in conducting the marriage, emphasising the reasons that a minimum limit for dowry was not specified.

⁴⁰ Mukhammad Nur Hadi et al., 'Wage-Based Dowry Legal Paradigm: Perspectives of Muslim Generation Z in Surabaya' (2023) 33 (2) Al-Ahkam 162.

⁴¹ Mahdalena Nasrun, 'Penentuan Nilai Mahar Rasulullah Saw Terhadap Istri-Istrinya' (in Indonesian) ['Determining the Value of the Prophet’s Dowry for His Wife'] (2022) 4 (1) Al-Mudharabah: Jurnal Ekonomi dan Keuangan Syariah 15, 19.

⁴² Abu al-Walid Sulaiman Al-Bajiy, *Al-Muntaqa* (in Arabic) [*The Choice*] (Qairo: Dar al-Kitab al-Islamy 1332), 213.

⁴³ Ibn Al-Humam, *Fath Al-Qadir* (in Arabic) [*The Almighty Opens*] (Beirut: Dar al-Kutub al-Ilmiyah n.d.) 231.

⁴⁴ Muhammad bin ‘Ali Al-Syawkani, *Nail Al-Awthar* (in Arabic) [*Get an Idol*] (Beirut: Dar al-Jil 1973) 156.

⁴⁵ Al-Humam (n 43).

⁴⁶ Abu al-Walid Ibn Rusyd, *Bidayat Al-Mujtahid* (in Arabic) [*Mujtahid Disputes*] (Beirut: Dar al-Hadits 2004) 132.

⁴⁷ Ihwan Sormin and Zezen Zainul Ali, 'The Comparative Study of the Protection of Women’s Rights in Article 463 of the New Criminal Code with Law Number 36 of 2009 Concerning Health Perspective of Jaser Auda' (2023) 2 (2) MILRev : Metro Islamic Law Review 186–197.

V. SHIFT IN THE MEANING OF DOWRY

Various relevant terms appear in Qur'an referring to dowry, which provide conceptual descriptions for dowry without providing specific details. These terms often emphasised “*ujrah*”, “*sadaq*” (voluntary offering), “*nihlah*” (voluntary provision), or “*faridhah*” (religious obligation). All these terms have similar interpretations, which served as grounds for the provisions of wealth or other possessions to the wife for marriage. However, the Qur'an has stated that dowry is an obligation, i.e., a compulsory requirement by the husband to the wife for the validity of marriage. Similarly, although the hadith of Prophet (PBUH) provide some clarity on the possible form and amounts of dowry, there are still questions regarding the actual purpose for which dowry is required.

Although classical schools of *fiqh* have engaged with the question of purpose of dowry, their interpretations have become obsolete in contemporary times. For example, the classical scholarship on dowry does not represent the contemporary social needs for gender neutrality and gender equality. According to Imam Shafi'i, dowry was something a man needed to provide to a woman to have an intimate relationship.⁴⁸ Maliki *ulema* also defined dowry as a payment to a female to acquire intimate relationship.⁴⁹ The Hanafis explicitly state that the dowry is a gift from the husband to the wife as a reciprocal consideration for the authorisation of intercourse.⁵⁰ Undoubtedly, with the contemporary developments in societal norms, dowry acquires a more nuanced interpretation. The key in this regard is the element of *ma'ruf* (acceptable), emphasised in the Qur'an which requires consideration of social realities of the time and space in assessing the true purpose and nature of dowry.

Some contemporary *fiqh* literature also explained that varying amounts of dowry were allowed based on the social status of women.⁵¹ There has been an emphasis on the status of woman in this regard especially in Indonesia.⁵² From this context, many contemporary *mufasssir* (analysts) attempted to historically evaluate the spirit of the Qur'an in changing the interpretation of dowry from Arab *jahiliyyah* tradition to a new dignified meaning. For example, Tahir bin Ashur emphatically stated that dowry is not the price for women's genitals. The Qur'an also used *sadaqah* to distance the meaning of dowry from *iwad* (consideration or price). *Sadaqah* excludes commercial or material element from dowry because *sadaqah* were commonly given without any consideration from the other party. In addition, the spirit of the Qur'an indeed glorified women with various notions of dowry.⁵³ In this regard, dowry has several functions including in the form of male sacrifice in marrying females where men entrust them with their wealth in return for a *sakinah* family. It also exhibited the seriousness of men in carrying out marriage ties. Dowry, in the form of *sadaqah*, also portrays sincerity due to being voluntarily provided without corresponding expectations.⁵⁴

⁴⁸ Abu al-Walid Ibn Rusyd, *Bidayat Al-Mujtahid* (in Arabic) [*Mujtahid Disputes*] (Beirut: Dar al-Hadits 2004) 136.

⁴⁹ Muhammad Al-Dasuqi, *Hasyiyah Al-Dasuqi* (in Arabic) [*Al-Dasuqi's Explanation*] (Damaskus: Dar al-Fikr 2014) 320.

⁵⁰ Al-Sarakhsyi, *Al-Mabsuth* (in Arabic) [*Stretched Out*] (Beirut: Dar al-Ma'rifah 1993) 230.

⁵¹ Al-Sarakhsyi, *Al-Mabsuth* (in Arabic) [*Stretched Out*] (Beirut: Dar al-Ma'rifah 1993) 230.

⁵² Hilmy and Utami (n 14).

⁵³ Ashur (n 20).

⁵⁴ Dini Arifah Nihayati, 'Mahar Unik Dan Mahar Bernilai Fantastis Dalam Perspektif Fikih Munakahat' (in Indonesian) [*A Unique Dowry and a Dowry of Fantastic Value from the Point of View of Munakahat Jurisprudence*] (2022) 2 (1) Masadir: Jurnal Hukum Islam 310, 312.

These various roles and functions of dowry were only considered from the *maqasid al-shari'a* (the objectives of law) perspectives. Specifically, Thahir bin Ashur constructs his analysis based on *maqasid juz'iyah* (secondary objectives). For example, his chapter on marriage examine *maqasid al-nikah* (objectives of marriage), *maqasid al-usrah* (objectives of family), and the matters that become their derivatives, including dowry.⁵⁵ Reassessing the terms used in the Qur'an is a necessary tool to determining the purpose of dowry provisions, according to Ibn Ashur. This is accompanied by the values that are *sabit* (unchanged) from the early days of Islamic law to the end. Meanwhile, the *mutaghayyirat* (changeable) values are considered the local wisdom of the Arab nation during the realisation of Sharia. In Abdullah Saeed's methodology of contextual interpretation, this dual process to reassess the meaning of Qur'an is necessary to identify the basic messages emerging from the Qur'an and reflected in the hadith.⁵⁶

Based on various verses, hadiths, and classical *fiqh* perspectives, dowry became the property owned by the wife, compared to the *jahiliyyah* era where it was considered as price paid to the wife's family. This indicated that the payment should be beneficial and enjoyable for the wife. The hadith allowed the husband to suitably provide dowry, even with the modest possessions considered less beneficial and enjoyable for the woman. These two aspects were not contradictory because the stipulation of dowry emphasised a *wasilah*, i.e., a medium or means to achieve the goal of marriage, which was the creation of *sakinah* family. From this context, *sakinah* was unachievable when one party felt disadvantaged.⁵⁷ This was indicated in the case of dowry determined according to the hadith allowing the payment as a pair of sandals subject only to the free consent and agreement of the wife. In this case, the Prophet allowed the marriage only when the wife by her own accepted the pair of sandals provided by the husband as a form of dowry.

However, dowry underwent several phases of interpretation. In the early stages, it was understood through simple and flexible verses, while rejecting the previous interpretation during the *jahiliyyah* time. This simple and flexible interpretation was then supported by various hadiths providing ease in determining dowry. Notwithstanding the flexibility and reference to 'urf in determining the *mahr*, after this phase, there was a tendency in *ulema* to reframe dowry payment into rigid, strict, and definitive objects. Many criteria were also added based on the *ijtihad* (juristic interpretation) of *ulema*. A movement of reinterpreting dowry has recently evolved through the approach of *maqasid al-sharia*. This was to restore dowry to its original condition, which was both flexible and dignified. In all these phases, however, one value did not change regarding dowry, namely the quality of the benefit for the wife. According to Abdullah Saeed, this value was the fundamental message that needs to be contextualised.⁵⁸

In Indonesia, the understanding of dowry varies in each region. For example, in Karangsono, Pasuruan, the amount of dowry depends on the woman's marriage characteristics. Here, however, three criteria were used as benchmarks, namely: 1) a widow or a virgin, 2) physical

⁵⁵ Muhammad al-Tahir Ibn Ashur, *Ibn Ashur Treatise on the Maqasid Al-Shariah*, Translated from the Arabic and Annotated by Mohamed El-Tahir El-Mesawi (International Institute of Islamic Thought 2006).

⁵⁶ A Saeed, *Al-Quran Abad 21: Tafsir Kontekstual* (in Indonesian) [*The 21st Century Al-Quran: Contextual Interpretation*] Ervan Nurtawab (ed) (1st edn, Mizan 2016) 125.

⁵⁷ Azmi Abubakar, 'Mahar Sebagai Wasa'il Maqasid Al-Tabi'ah' (in Arabic) ['Dowry as a Natural Intermediary Goal'] (2021) 2 (1) ADHKI: Journal of Islamic Family Law 107, 112.

⁵⁸ Abdullah. Saeed, *The Qur'an: An Introduction*, n.d., accessed February 6, 2024, <https://www.routledge.com/The-Quran-An-Introduction/Saeed/p/book/9780415421256>.

appearance, and 3) age.⁵⁹ The marriage payment is also considered a form of financial security for the wife, regarding undesirable events to the husband, such as accidents or divorce.⁶⁰ Meanwhile, in Manado City, dowry become a symbol and a matter of prestige for both the families of the wife and husband.⁶¹ This indicates that the higher dowry provided by the family of the husband led to greater social status. In this context, the payment is acknowledged as a customary marriage practice, which became the wife's right. A tradition also required the provision of additional assets to the family of the wife and not directly to the bride.⁶² This is in line with the situation in Kendari, where the customs required the provision of additional assets. These assets were subsequently provided to the family of the bride and traditional figures witnessing the marriage ceremony.⁶³

In the Kudus area people consider dowry to be beneficial for daily work. The dowry payment usually uses buffalo, an animal commonly used in agriculture. However, the provision of the animal was replaced with motorcycles over time. This was because both assets had similar functions, regarding daily work performance, specifically for the provision of needs for the family.⁶⁴ According to Zulaikha, different women in different communities have different dowries. This indicated that many Javanese women felt burdened by the materialistic stigma from the husband's family or the surrounding community when a high dowry was set. These conditions often pressured or forced them to settle for a more modest payment. Despite these setbacks, dowry was still perceived as a consumptive material, which the wife only enjoys and consumes. In some cases, the females setting a relatively high dowry experienced disharmony within the husband's family.⁶⁵

This does not align with the situation in Pidie, Aceh, where the marriage payment became a symbol of pride for the bride's family. The larger the dowry provided by the husband, the greater the social status of the bride family. This condition became a double-edged sword, as many females set exorbitantly high dowry, leading to failure commonly encountered in marriage ceremonies. In this case, a prospective husband must spend around 90 to 120 million rupiahs to propose to a potential bride.⁶⁶ Meanwhile, in Bandar Lampung, the man considers dowry a form of seriousness toward marriage commitments. In this region, the payment is often in the form of gold, with its amount determined based on the educational status of the bride. The higher the level of education, the larger the amount of gold provided as dowry.⁶⁷

⁵⁹ Ahmad Arif Masdar Hilmy and Ria Cahyaning Utami, 'The Dowry Classing Concept Based on Women's Criteria at Karangsono, Wonorejo, Pasuruan; A Study of Berger and Luckmann's Social Construction' (2021) 16 (1) *Al-Ihkam: Jurnal Hukum dan Pranata Sosial* 137–160.

⁶⁰ Hilmy and Utami (n 14).

⁶¹ Andi Rahman Giu, 'Tradisi Mahar Dan Antar Harta Pada Perkawinan Masyarakat Muslim Di Kota Manado (Suatu Tinjauan Sosial Kultural)' (in Indonesian) ['Dowry Traditions and Transfer of Property in Marriage in Muslim Communities in Manado City (Socio-Cultural Review)'] (2020) 43 (2) *Dialog* 119, 123.

⁶² *ibid.*

⁶³ Muhammad Alifuddin, Suhlat Suhlat And Laode Anhusadar, 'Mahar Dan Bhoka (Dilektika Agama Dan Adat Pada Masyarakat Muna Di Kendari Dalam Perspektif Hukum Islam)' (in Indonesian) ['Dowry and Bhoka (Dilectics of Religion and Customs of the Muna Community in Kendari from an Islamic Legal Perspective)'] (2021) 19 (2) *Istinbath* 120, 125.

⁶⁴ Ali Maskur and others, 'Enkulturasikan Hukum: Pemberian Mahar Hewan Kerbau Dalam Perkawinan' (in Indonesian) ['Legal Enculturation: Giving a Buffalo Animal Dowry in Marriage'] (2022) 9 (2) *Iqtisad: Reconstruction of Justice and Welfare for Indonesia* 145, 147.

⁶⁵ Siti Zulaikha, 'Permintaan Mahar Perkawinan Dan Stigmatisasi Negatif Terhadap Perempuan' (in Indonesian) ['Demand for Marriage Dowry and Negative Stigmatization of Women'] (2020) 17 (1) *Jurnal Hukum* 116, 118.

⁶⁶ Roswita Sitompul, Alesyanti and Nurul Hakim, 'Marriage Mahar to Minimize the Low Rate of Marriage in Aceh Pidie, Indonesia' [2018] 3 (2) *Italian Sociological Review* 123, 126.

⁶⁷ Efrinaldi Efrinaldi and others, 'Urf Review of The Practice of Gold Marriage Mahar in The Community of Tanjung Senang District Bandar Lampung' (2022) 7 (2) *Al-Istinbath: Jurnal Hukum Islam* 293, 301.

VI. DOWRY IN THE FAMILY ECONOMY

Based on various previous studies, most Indonesian society considers dowry important for the sustainability of family life. This marriage payment was observed as a source to ensure the economic livelihood of the family. In this case, the perspective was rational because one of the functions of dowry was to show the sincerity and seriousness of a man marrying a woman. Based on the community's perspective, a man could provide sufficient financial support in married life when an adequate dowry was provided during the marriage process.⁶⁸ However, specific regions perceived the payment as part of customary practices, as observed in Kendari and Manado.⁶⁹

Most of the Indonesian society also stated that the payment should hold value and be saved/used by the wife at some point. In this case, dowry was considered one of the guarantees for the sustainability of family life and supported the household's economy.⁷⁰ Furthermore, Nur Hadi argued that the true spirit of dowry emphasised productivity, with the underlying payment reason prioritising its productive value according to various verses and hadiths.⁷¹ This proves that anything having a productive value was considered a dowry designed by Islamic law, to generate benefits and assist in family life. From this context, the value should be the primary consideration in determining the type and amount of the marriage payment.⁷² The productive value is also a form of expediency contextualisation, which was the basic message of the Qur'an and hadith about dowry.

Based on these descriptions, the requirement for a productive dowry did not negate one of the relevant functions, symbolising appreciation toward females. This indicates that providing a productive dowry to the wife played a role in supporting the family's economy. It was also helpful to the woman in earning additional income to meet personal needs besides from the financial support provided by the husband. This assisted with reducing the patriarchal culture, which often occurred in marital relationships. In addition, the possession of a productive dowry was more in line (*munasib*) with the main purpose of marriage, which is the creation of *sakinah* family.

These conditions do not mean that non-productive assets are invalid as dowry. This is because the scholars unanimously agreed upon the authenticity of the hadith narrating the Prophet marrying off one of his companions with dowry of teaching the Qur'an. Also, the story of the Prophet, which involved a marriage performance with a dowry consisting of a pair of sandals, is also an example. However, the hadiths need to be contextualised based on arguments and evidence, with none of the observations being disregarded. The hadiths are perceived as a way out when both parties agreed and committed to the marriage processes. In this case, the economic conditions did not support the provision of a more valuable dowry. This condition emphasised the true meaning of "*la'w*" (even if) in the phrases "*wa la'w khatamun mun hadid*" (even if it's just an iron ring) and "*awlim wa law bi syatin*" (make a wedding feast even if there is only goat meat), where it represented the facilitation granted by the Prophet to his companions needing ease in each situation. From this context, a low-value dowry to undermine the honour of a female is incomprehensible, and its sole provision is in a state of necessity. The

⁶⁸ Hadi et al. (n 40).

⁶⁹ Giu (n 61).

⁷⁰ Yenti and others (n 8).

⁷¹ Hadi et al. (n 40).

⁷² *ibid*.

commitment and promise to build a good family were also more valuable to both spouses than the most expensive possessions.

VII. CONCLUSION

Based on the analysis, dowry is a condition for a valid *nikah* (marriage) in Islamic law. Dowry is fundamentally provided by the husband to the bride as a form of respect and gratitude. This indicates the husband's commitment to marriage life, toward establishing a *sakinah* family. It also differed from the concept of marriage payment in the *jahiliyyah* era, where the husband had to pay a price to the guardian of the bride for the marriage process to commence. Furthermore, from the time of the Prophet until the present, there have been continuous changes in the understanding of the dowry and its role in marriage. This started as a counter-narrative to understanding the payment in the *jahiliyyah* era, becoming a rigid and inflexible device during the classical age of *fiqh*. In all these phases, however, the value of quality of utility for the wife in dowry has not changed.

Dowry is understood better as an important component of *wasilah* in achieving the goal of marriage, which is considered a *sakinah* family. Furthermore, the Qur'an and hadith do not restrict the dowry type, nature, or amount. The preference is given to its productive value, due to its contribution to the economy of the family and the provision of security for the wife. From this context, the unchanging value of utility is prioritised in the understanding of dowry.